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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

FILED

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

CV 07-04846

JFW (VBK)

12 **ASTEC AMERICA INC.**, a Delaware
13 corporation,
14 Plaintiff,

15 v.

16 **POWER-ONE, INC.**, a Delaware
17 corporation, and DOES 1 through 10,
18 inclusive,

19 Defendant.

Case No.

COMPLAINT FOR:

**(1) NON-INFRINGEMENT OF
PATENT;**

**(2) INVALIDITY OF PATENT;
AND,**

(3) FALSE MARKING;

DEMAND FOR JURY TRIAL

20 Plaintiff Astec America Inc. (hereinafter "Astec"), by and through its
21 undersigned counsel, alleges as follows:

22 **The Parties**

23 1. Plaintiff Astec is a Delaware corporation having a principal place of
24 business in Carlsbad, California.

25 2. Defendant Power-One, Inc. (hereinafter "Power-One") is a Delaware
26 corporation having a principal place of business in Camarillo, California, located in
27 the Central District of California.
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Jurisdiction and Venue

3. Subject matter jurisdiction in this Court is based upon 28 U.S.C. §§ 1331, 1338(a), and 2201(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) & (c) and/or § 1400.

FIRST CLAIM FOR RELIEF

Declaratory Judgment of Non-Infringement

5. Power-One has charged Astec with committing acts of infringement of United States Patents Nos. 6,936,999, 6,949,916, 7,000,125, and 7,049,798 (hereinafter collectively “the Patents-at-Issue”).

6. A justiciable controversy exists between Power-One and Astec concerning the scope of the Patents-at-Issue and with respect to the alleged infringement and liability for the alleged infringement thereof by Astec.

7. Specifically, Power-One has charged Astec with committing acts of infringement of the Patents-at-Issue by Astec’s activities related to: (i) a family of custom dc-dc converters known within Astec collectively as “Batoka” and (ii) a dc-dc converter known within Astec as “Atlas.”

8. Power-One’s allegations of infringement present a real and justiciable controversy. Accordingly, Astec seeks a declaratory judgment that none of the claims of the Patents-at-Issue have been (i) directly infringed by Astec; (ii) contributorily infringed by Astec; or (iii) infringed by active inducement by Astec.

SECOND CLAIM FOR RELIEF

Declaratory Judgment of Invalidity

9. Astec incorporates by reference each preceding allegation as though expressly stated herein.

11. The Patents-at-Issue, and each claim in suit thereof, are invalid for failure to comply with the grounds specified in Part II of Title 35 of the United States Code, including, without limitation, §§ 102 and 103.

12. Power-One's allegations of infringement present a real and justiciable controversy. Accordingly, Astec seeks a declaratory judgment that the Patents-at-Issue, and each claim in suit thereof, are invalid for failure to comply with 35 U.S.C. § 112, including, but without limitation, failure to set forth the best mode.

False Marking

14. Power-One has falsely marked several of its products with the patent numbers of patents which clearly do not cover these products, in violation of the patent laws of the United States, 35 U.S.C. § 292.

16. These acts of false marking render the present case an exceptional case under 35 U.S.C. § 285.

17. Power-One should be fined \$500.00 for each and every offense, including each and every false marking of a unit of product. Astec is entitled to an award of one half of the penalty levied upon Power-One with the other half provided for the use of the United States as provided in 35 U.S.C. § 292(b).

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1 **WHEREFORE**, Astec prays for the following relief:

- 2 A. A declaration that United States Patents Nos. 6,936,999, 6,949,916,
3 7,000,125, and 7,049,798 are invalid;
- 4 B. A declaration that United States Patents Nos. 6,936,999, 6,949,916,
5 7,000,125, and 7,049,798 have not been infringed by Astec;
- 6 C. A declaration that this case is exceptional pursuant to 35 U.S.C. § 285;
- 7 D. A declaration that Power-One falsely marked its products;
- 8 E. That Power-One be ordered to pay a fine in the amount of \$500 per
9 offense as defined under 35 U.S.C. § 292, including but not limited to
10 each and every false marking of a unit of product, with half of the
11 proceeds being remitted to Astec and the other half being remitted to the
12 Court for the use of the United States;
- 13 F. That Astec be awarded reasonable attorneys' fees and costs of this action
14 pursuant to 35 U.S.C. § 285; and
- 15 G. That Astec be awarded such other and further relief as this Court deems
16 just and proper.

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19 Dated: July 27, 2007

LORD, BISSELL & BROOK LLP

20
21 By: 

22 Keith G. Wileman
23 Attorneys for Plaintiff
24 Astec America Inc.
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DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P 38(b), plaintiff Astec America Inc. hereby
demands a trial by jury on all claims properly so triable.

Dated: July 27, 2007

LORD, BISSELL & BROOK LLP

By: 

Keith G. Wileman
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Astec America Inc.

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